

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Keyne Jean Villert	Team: Team # 3	CCRB Case #: 201402418	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/06/2014 2:15 PM, Friday, 03/07/2014	Location of Incident: In front of § 87(2)(b) and inside the 47th Precinct stationhouse	Precinct: 47	18 Mo. SOL 9/6/2015	EO SOL 9/6/2015	
Date/Time CV Reported Thu, 03/13/2014 11:31 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/13/2014 11:31 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			047 PCT
2. POM David Sammarco	21076	937471	047 PCT
3. An officer			047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Timothy Marx	20771	937037	047 PCT
2. POM Kevin Mockel	21947	947261	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Discourtesy: On March 6, 2014, in front of § 87(2)(b) in the Bronx and inside the 47th Precinct stationhouse, officers spoke rudely to § 87(2)(b) and § 87(2)(b)	
B. POM David Sammarco	Discourtesy: On March 6, 2014, inside the 47th Precinct stationhouse, PO David Sammarco spoke rudely to § 87(2)(b)	
C. An officer	Discourtesy: On March 7, 2014, inside the 47th Precinct stationhouse, an officer spoke rudely to § 87(2)(b)	

Case Summary

- On March 6, 2014, at approximately 2:15 p.m., § 87(2)(b) and § 87(2)(b) were in front of § 87(2)(b) in the Bronx waiting on an unidentified individual, CV1, whose phone they were in possession. § 87(2)(b) and § 87(2)(b) were going to meet with the unidentified individual to sell the phone back to her. At some point, PO David Sammarco, PO Timothy Marx, and PO Kevin Mockel, each from the 47th Precinct, arrived at the scene and arrested § 87(2)(b) and § 87(2)(b). Additional unidentified officers may have also been present at the scene. During that time, an unidentified officer, PO1, allegedly stated to § 87(2)(b) “Shut the fuck up” and “Get the fuck inside the car,” and another unidentified officer, PO2, allegedly stated to § 87(2)(b) “You know the fuck you doing” and “You know the fuck is going on” (**Allegation A**). Later, the officers transported § 87(2)(b) and § 87(2)(b) to the 47th Precinct stationhouse and into holding cells. There, an unidentified officer, PO3, allegedly called § 87(2)(b) and § 87(2)(b) “animals” and further allegedly spoke rudely to them (**within Allegation A**). § 87(2)(b) was eventually released, at which point PO Sammarco spoke rudely to him and stated, “You need to get the fuck out of my precinct, unless you want to go back in the cell” (**Allegation B**). At approximately 3 a.m. on the next day, an unidentified officer, PO4, allegedly spoke rudely to § 87(2)(b) (**Allegation C**).
- § 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b), § 87(2)(a) 160.50 § 87(2)(b). § 87(2)(b) was released with a Desk Appearance Ticket (DAT) (encl. D3-D4 and F4-F6).
- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) was arrested.
- § 87(2)(b)
§ 87(2)(b)
- As of July 22, 2014, approximately a month and a half following the expiration of the filing deadline, § 87(2)(b) and § 87(2)(b) have not filed a notice of claim with the City of New York in regard to this incident (encl. O). On December 4, 2014, the undersigned investigator submitted to the New York City Office of the Comptroller a new inquiry on the status of any potential notice of claim filed in regard to this incident. To date, no response has been received and any such response will be added to the case file upon its receipt.

Civilian and Officer CCRB Histories

- There are no substantiated CCRB allegations against PO Sammarco. In his five years at the CCRB, PO Sammarco has accumulated eight discourtesy and three offensive language allegations, not including those from this case, which were not unfounded and are spread over nine separate cases (encl. A1-A3). This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) has not previously filed one (encl. A4-A5).

Potential Issues

- No significant issues were encountered or identified over the span of this investigation.

NYPD Documents

- The Event Summary log does not list any Summary matching this incident (encl. K1-K3). The Roll Call does not list any additional officer partnered with any of the interviewed officers (encl. I1-I28). The interviewed officers' memo books do not list any additional officer who may have been partnered with them or present at the time of the incident (encl. F1-F4, G1-G3, and H1-H3). (encl. P13).

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) and § 87(2)(b) provided a description of one of the subject officers which matches PO Sammarco, their arresting officer. Moreover, § 87(2)(b) mentioned that same subject officer explained to her and § 87(2)(b) that he was their arresting officer. (encl. C1-C3 and D1-D2).

Allegation Not Pleaded

No threat of arrest is being pled against PO Sammarco because the alleged statement amounted to a statement of fact considering that he used his own discretion to release § 87(2)(b) with a DAT instead of processing his arrest at Bronx Central Booking. Moreover, the alleged statement itself indicates that § 87(2)(b) was informed that he should leave the stationhouse unless he wished to remain in police custody. Some allegations are pled against "officers" or "an officer" because, as detailed below, the investigation could not identify their respective subject officer(s).

Allegation A – Discourtesy: On March 6, 2014, in front of § 87(2)(b) in the Bronx and inside the 47th Precinct stationhouse, officers spoke rudely to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) alleged that PO1 stated to her, "Shut the fuck up" and "Get the fuck inside the car." § 87(2)(b) described PO1 as a uniformed white man in his early forties who is approximately 5'7" tall, has an average build, and has black hair. § 87(2)(b) alleged that, as he was being handcuffed, PO2 stated to him, "You know the fuck you doing" and "You know the fuck is going on." § 87(2)(b) did not see PO2. § 87(2)(b) and § 87(2)(b) made no indication that they heard each other's interaction with the officers at the arrest location. § 87(2)(b) indicated that at least six officers were present at the arrest location, whereas § 87(2)(b) indicated that three to four were present. § 87(2)(b) and § 87(2)(b) also alleged that, at the stationhouse, PO3 either called § 87(2)(b) an "animal" or called the two of them "fucking animals." § 87(2)(b) added that PO3 further used the expletive "fuck" during this conversation. § 87(2)(b) did not see PO3 who § 87(2)(b) described as a uniformed white man in his early twenties who has short hair, is approximately 5'7" tall, and has an average build. (encl. C1-C3 and D1-D2).

PO Sammarco, PO Marx, and PO Mockel were interviewed. Each of the officers interviewed indicated that no additional officers responded at the scene. Each of the officers interviewed denied making any of the above remarks, or hearing any officer do so. (encl. F7-F8, G5-G6, and H5-H6).

None of the officers interviewed were in possession of CV1's identifying or contact information at the time of their interviews. The criminal complaint report related to this incident could not be obtained, to identify CV1, because it was sealed. (encl. S27). All contact attempts to § 87(2)(b) to obtain a signed unsealing order from her or have her view a photo array were unsuccessful and were exhausted. § 87(2)(b) missed his scheduled appearance at the CCRB for purposes of viewing a photo array. To date, § 87(2)(b) and § 87(2)(b) have not contacted the undersigned investigator to arrange for the signature of the unsealing order or to schedule or reschedule a photo array viewing.

Although § 87(2)(b) provided a description of PO3, which closely matches PO Marx, it is nondescript and there remains the possibility that additional officers were present at the arrest location. None of the interviewed officers closely or distinctly match the description of any of the additional subject officers. (encl. F7, G5, and H5).

§ 87(2)(g)

Allegation B – Discourtesy: On March 6, 2014, inside the 47th Precinct stationhouse, PO David Sammarco spoke rudely to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that PO Sammarco repeatedly spoke rudely to § 87(2)(b) as he was being released, by using the expletive “fuck.” § 87(2)(b) added that she could hear the conversation despite hearing it from a distance while she remained inside her holding cell. The remarks alleged by § 87(2)(b) and § 87(2)(b) differ in context. (encl. C1-C3 and D1-D2). PO Sammarco confirmed that he released § 87(2)(b) however, he denied using any of the alleged discourteous remarks. PO Marx indicated that he was not present at the time of the interaction, and PO Mockel denied having witnessed it. All contact attempts to the arrestees present in the holding cell area around that time were unsuccessful and exhausted. (encl. F7-F8, G5-G6, and H5-H6).

§ 87(2)(g)

Allegation C – Discourtesy: On March 7, 2014, inside the 47th Precinct stationhouse, an officer spoke rudely to § 87(2)(b)

§ 87(2)(b) further alleged that, on the day after § 87(2)(b) was released and while she was still held in the cell, PO4 stated to her, “That is your fucking problem and not my fucking problem.” § 87(2)(b) described PO4 as a uniformed chubby white man in his late twenties who has black hair and is approximately 5’5” tall. (encl. C1-C3) § 87(2)(b) who is listed on the holding pen roster (encl. J1-J3) as being present at the time of the alleged interaction, indicated that § 87(2)(b) repeatedly screamed at officers but that he did not hear any of them use profanity (encl. E2). § 87(2)(b) and each of the officers interviewed indicated that they were not present for this part of the incident. (encl. D1-D2, F7-F8, G5-G6, and H5-H6). All contact attempts to the additional inmates present in the holding cell area around the time of this part of the incident were unsuccessful and exhausted. § 87(2)(b) failed to cooperate with viewing a photo array and her description of PO4 does not distinctly match a specific officer. (encl. M1-M10).

Team: 3

Investigator: _____ Keyne Jean Villert _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date